

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 1999-479-C - ORDER NO. 2000-0274  
MARCH 21, 2000

IN RE: Application of MVX.COM Communications, ) ORDER  
Inc. to Amend its Certificate of Public ) GRANTING  
Convenience and Necessity to Provide Local ) CERTIFICATE TO  
Exchange Telecommunications Services ) PROVIDE LOCAL  
within the State of South Carolina. ) SERVICES

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of MVX.COM Communications, Inc. (f/k/a MVX Communications, LLC) (hereinafter referred to as "MVX.COM Communications" or the "Company") requesting to amend its Certificate of Public Convenience and Necessity to authorize MVX.COM Communications to provide local exchange telecommunications services throughout the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1999) and the Regulations of the Public Service Commission of South Carolina.

By letter, the Commission's Executive Director instructed MVX.COM Communications to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The proposed Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. MVX.COM Communications complied with this instruction and provided the

Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition (“SCTC”).

On February 3, 2000, counsel for SCTC filed with the Commission a Stipulation in which MVX.COM Communications stipulated that it would seek authority in non-rural local exchange (“LEC”) service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until MVX.COM Communications provided written notice of its intent prior to the date of the intended service. MVX.COM Communications also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. MVX.COM Communications agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to MVX.COM Communications to provide local services provided the conditions contained in the Stipulation are met. The Stipulation was entered into the evidence of the hearing, and the Staff requested that the Stipulation be approved by the Commission. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on March 2, 2000, at 11:30 a.m., in the Commission's Hearing Room. The Honorable Philip T. Bradley, Chairman, presided. MVX.COM Communications was not represented by counsel. Florence P. Belser, Staff Counsel, represented the Commission Staff.

Deanna Toy, Assistant Secretary of MVX.COM Communications, appeared and testified in support of the Application. Ms. Toy adopted the prefiled testimony of Edward A. Brinskele, President of MVX.COM Communications. MVX.COM Communications is a California corporation, which has been granted a Certificate of Authorization to transact business in the State of South Carolina by the South Carolina Secretary of State. MVX.COM Communications is a wholly-owned subsidiary of MVX.COM, another California corporation. Upon certification from this Commission, MVX.COM Communications intends to commence offering service immediately upon establishment of the appropriate resale or interconnection arrangements with the incumbent Local Exchange Carriers (“ILECs”).

Ms. Toy offered that MVX.COM Communications possesses the necessary financial qualifications to provide the services for which it seeks authority. MVX.COM Communications provided, with its application, financial information to demonstrate its financial resources. Ms. Toy acknowledged that MVX.COM Communications has a strong cash position and sufficient current assets to cover its current debt. Ms. Toy also stated that MVX.COM Communications has the financial backing of its parent company.

Regarding the Company’s technical ability and managerial abilities to offer services in South Carolina, Ms. Toy offered that MVX.COM Communications has sufficient technical and managerial resources and abilities to provide the services for which authority is sought. The record reveals that MVX.COM Communications’ personnel represent a broad spectrum of business and technical disciplines. Not only do the officers of MVX.COM Communications possess many years experience in the telecommunications industry, but a review of the biographies of the Company’s management team reveals experience in financial analysis, risk

management, accounting, finance, software development, law, human resources, and marketing. (See Exhibit D of Application.) As further evidence of the Company's abilities to provide the services for which authority is requested, Ms. Toy offered that MVX.COM Communications is currently providing interexchange services in California.

Ms. Toy explained that customers will have access to customer service representatives through a toll-free number. MVX.COM Communications will market its services through direct sales and has no plans at this time to conduct telemarketing of its services.

Ms. Toy affirmed that MVX.COM Communications will provide services that meet the service standards of the Commission, that MVX.COM Communications will participate in the support of universally available telephone service at affordable rates as required by the Commission, and that the services provided by MVX.COM Communications will neither adversely impact the availability of universally affordable local exchange service nor adversely impact the public interest. According to Ms. Toy approval of the authority for MVX.COM Communications will provide consumers in South Carolina with additional choices of local service, will provide improved quality of service and heightened opportunities to obtain improved technology, and will offer increased efficiency to the telecommunications infrastructure. Ms. Toy also testified that MVX.COM Communications will operate in compliance with the Commission's Rules and Regulations, orders and statutes.

According to the application and to Ms. Toy, MVX.COM Communications requests waivers of certain Commission regulations. First MVX.COM Communications seeks a waiver of Reg. 103-610 which requires a company to keep its books and records within South Carolina. Ms. Toy stated that MVX.COM Communications desires to keep its books and records at its

headquarters in Novato, California. Next, MVX.COM Communications requests that it be allowed to maintain its books and records in accordance with Generally Accepted Accounting Principles (“GAAP”), rather than the Uniform System of Accounts (“USOA”). According to Ms. Toy, MVX.COM Communications currently maintains its books in accordance with GAAP and does not possess the detailed cost data required by USOA. Third, MVX.COM Communications requests a waiver of Reg. 103-631 so that it will not be required to publish its own local directory. Ms. Toy stated that MVX.COM Communications would contract with the ILEC to include the listings of MVX.COM Communications’ customers in the ILEC directory. Finally, MVX.COM Communications requests a waiver of any reporting requirement which is not applicable to competitive providers such as MVX.COM Communications. However, upon questioning, Ms. Toy could not cite any specific reporting requirement for which MVX.COM Communications seeks a waiver.

Upon consideration of the application and the record from the hearing, the Commission makes the following findings of fact and conclusions of law:

#### **FINDINGS OF FACT**

1. MVX.COM Communications is organized as a corporation under the laws of California and has received a certificate from the South Carolina Secretary of State to transact business within South Carolina as a foreign corporation.

2. MVX.COM Communications wishes to provide local exchange services within the State of South Carolina.

3. The Commission finds that MVX.COM Communications possesses the technical, financial, and managerial resources sufficient to provide the service requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 1999).

4. The Commission finds that MVX.COM Communications' "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 1999).

5. The Commission finds that MVX.COM Communications will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 1999).

6. The Commission finds that MVX.COM Communications will provide services which will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 1999).

7. The Commission finds that the provision of local exchange service by MVX.COM Communications "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1999).

### **CONCLUSIONS OF LAW**

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to MVX.COM Communications to provide competitive intrastate local exchange services within the State of South Carolina. The terms of the Stipulation between MVX.COM Communications and the SCTC (attached hereto as Exhibit 1) are approved and adopted as a portion of this Order. Any proposal to provide local services to rural service areas is subject to the terms of the Stipulation. In accordance with the Stipulation, MVX.COM Communications may not provide any local

service to a customer located in a rural incumbent LEC's service area, unless or until MVX.COM Communications provides such rural incumbent LEC and the Commission, written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. The Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while it conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon a showing of good cause. It is specifically provided that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Order in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications as they may be entitled. If, after notice from MVX.COM Communications that it intends to serve a customer located in a rural incumbent LEC's service area, and the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or if the Commission institutes a proceeding of its own, no service may be provided by MVX.COM Communications in a rural incumbent LEC's service area pursuant to this Order without prior and further Commission approval.

2. MVX.COM Communications shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters. Any proposed change in the rates reflected in the tariff for local services which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1999).

3. MVX.COM Communications shall resell or provide the services of only those companies authorized to provide telecommunications services in South Carolina by this Commission.

4. MVX.COM Communications shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

5. MVX.COM Communications shall file annual financial information in the form of annual reports and gross receipt reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, MVX.COM Communications shall keep such financial records on an intrastate basis as needed to comply with the annual report and gross receipt filings.

6. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs MVX.COM Communications to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association ("SC NENA") with contact information and

sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, MVX.COM Communications shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

7. The Company shall, in compliance with Commission regulations, designate and maintain authorized utility representatives who are prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the names of the authorized representatives to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

MVX.COM Communications shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order.

(Attachment A shall be utilized for the provision of this information to the Commission.)

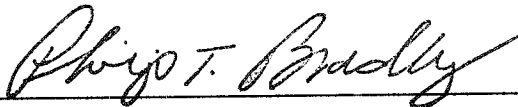
Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

8. MVX.COM Communications shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

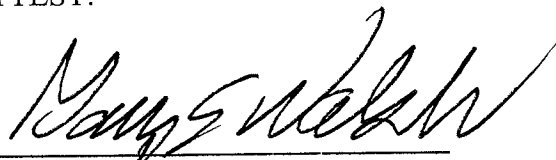
9. MVX.COM Communications requested waivers from certain Commission regulations and requirements. Specifically, MVX.COM Communications requested waivers from (1) the requirement found in Rule 103-631 to publish and distribute local exchange directories, (2) the requirement contained in Rule 103-610 that all records be kept within the State of South Carolina, and (3) any requirement to maintain books and records in compliance with the USOA. The Commission grants the request for waiver from the requirement to publish directories as MVX.COM Communications has indicated that it will contract with the local incumbent local exchange company to include the customers of MVX.COM Communications in the directory listing of the ILEC directory. Further, the Commission grants the request for a waiver from the requirement contained in Rule 103-610 that all records be kept within the State of South Carolina as MVX.COM Communications has indicated that its principal place of business is located in Novato, California. Furthermore, MVX.COM Communications has indicated that it will make its records available for inspection upon request by the Commission. Further, the Commission grants MVX.COM Communications' request that it be allowed to keep its books and records in accordance with GAAP rather than the USOA. The Commission at this time, however, denies MVX.COM Communications' request that it be exempt from any report not applicable to a competitive local provider. This request is too nebulous and speculative to grant as evidenced by the witness being unable to cite a single reporting requirement from which MVX.COM Communications sought a waiver. MVX.COM Communications will be subject to the same reporting requirements as all other CLECs. MVX.COM Communications is directed to comply with all Commission regulations, unless a regulation is specifically waived by the Commission.

10. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)

## AUTHORIZED UTILITY REPRESENTATIVE INFORMATION

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION REGULATION

103-612.2.4(b) - Each utility shall file and maintain with the Commission the name, title, address, and telephone number of the persons who should be contacted in connection with General Management Duties, Customer Relations (Complaints), Engineering Operations, Test and Repairs, and Emergencies during non-office hours.

Company Name ( Including dba Name(s) or Acronyms used or to be used in South Carolina)

Business Address

City, State, Zip Code

A.

General Manager Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

B.

Customer Relations (Complaints) Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

C.

Engineering Operations Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

D.

Test and Repair Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

E.

Contact for Emergencies During Non-Office Hours (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

F.

Financial Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

G.

Customer Contact Telephone Number for Company (Toll Free)

This form was completed by

Signature

**If you have any questions, contact the Consumer Services Department (803-896-5230)  
or Utilities Department at (803-896-5105).**

BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF  
SOUTH CAROLINA

Docket No. 1999-479C

Re: Application of MVX.COM Communications, Inc. )  
to Amend Its Certificate of Public Convenience )  
and Necessity to Offer Local Exchange Services )  
to Both Residential and Business Customers )  
Throughout the State of South Carolina )  
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**STIPULATION**

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and MVX.COM Communications, Inc. ("MVX.COM") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose MVX.COM's Application. SCTC and MVX.COM stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to MVX.COM, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. MVX.COM stipulates and agrees that any Certificate which may be granted will authorize MVX.COM to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. MVX.COM stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. MVX.COM stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless

and until MVX.COM provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, MVX.COM acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. MVX.COM stipulates and agrees that if MVX.COM gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then MVX.COM will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. MVX.COM acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.


7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. MVX.COM agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

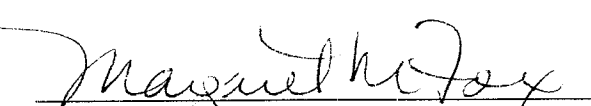
9. MVX.COM hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 31<sup>st</sup> day of January, 2000.

MVX.COM Communications, Inc.:

  
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\_\_\_\_\_  
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(803) 799-9800

Attorneys for the South Carolina Telephone  
Coalition

ATTACHMENT A

South Carolina Telephone Coalition Member Companies  
for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.  
Bluffton Telephone Company, Inc.  
Chesnee Telephone Company  
Chester Telephone Company  
Farmers Telephone Cooperative, Inc.  
Ft. Mill Telephone Company  
Hargray Telephone Company, Inc.  
Heath Springs Telephone Company Inc.  
Home Telephone Company, Inc.  
Lancaster Telephone Company  
Lockhart Telephone Company  
McClellanville Telephone Company  
Norway Telephone Company  
Palmetto Rural Telephone Cooperative, Inc.  
Piedmont Rural Telephone Cooperative, Inc.  
Pond Branch Telephone Company  
Ridgeway Telephone Company  
Rock Hill Telephone Company  
Sandhill Telephone Cooperative, Inc.  
St. Stephen Telephone Company  
West Carolina Rural Telephone Cooperative, Inc.  
Williston Telephone Company